

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-00252-01-CR-W-HFS
)	
RODOLFO ZAMBRANO)	
)	
Defendant.)	

ORDER

Defendant has moved for an order allowing him to file a guilty plea to the original indictment rather than a superseding indictment. Doc. 43.

During the course of taking a proposed guilty plea to the original indictment, charging intent to distribute 50 grams of cocaine or more, the Government sought a recess and continuance so that it could obtain a superseding indictment charging intent to distribute 500 grams or more. The original indictment form was in error, as shown by the indication that a minimum sentence of five years would apply.

Defendant does not complain of the superseding indictment proceeding as being itself irregular. The original indictment is thus no longer available for a plea, unless the delay authorized by the court was an abuse of discretion.

Neither party cites pertinent authority. Even if I assume carelessness on the part of the Government, the mistake was patent upon the record, and only a vested right to enjoy his good luck would justify this motion. Other than frustrated hopes I can see nothing to justify insistence on a right to plead to an inaccurate indictment. I am satisfied it was reasonable to allow the Government

to correct the charges.

The motion (Doc. 43) is therefore DENIED.

/s/ Howard F. Sachs
HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

June 8, 2010

Kansas City, Missouri